

Internal Revenue Service

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Legend

Taxpayer =

Buyer =

Target =

Target Sub =

CFC1 =

CFC2 =

CFC3 =

CFC4 =

DRE1 =

DRE2 =

Country A =

Country B =

Country C =

Country D =

Country E =

Country F =

Country G =

Business 1 =

Business 2 =

Business 3 =

Industry A =

Regulator =

Month 1 =

Month 2 =

Year1 =

Year2 =

Year3 =

Year4 =

Gross Proceeds =

X =

Y =

A =

Dear _____ :

This letter responds to your authorized representative's April 7, 2021 request for rulings on certain federal income tax consequences of a proposed transaction (the "Proposed Transaction"). The material information submitted in that request and in subsequent correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by penalty of perjury statements executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Summary of Facts

Taxpayer is a publicly traded domestic corporation that owns Target. Target owns Target Sub. Target and Target Sub are each treated as disregarded entities for federal income tax purposes. Target Sub directly operates Business 1. Taxpayer also wholly owns, directly and indirectly through a chain of disregarded entities, CFC1, a Country A entity treated as a corporation for federal income tax purposes. CFC1 wholly owns, through a chain of foreign disregarded entities, CFC2, CFC3 and CFC4, each a Country B entity treated as a corporation for federal income tax purposes. CFC2, CFC3 and CFC4 directly operate Business 2. CFC1 also wholly owns, thorough a chain of foreign disregarded entities, DRE1, a Country C entity treated as a disregarded entity for federal income tax purposes. DRE1 wholly owns DRE2, a Country C entity that is treated as a disregarded entity. DRE1 and DRE2 directly operate Business 3.

Taxpayer has two outstanding equity-linked compensation plans (the "Equity-Linked Compensation Plans"). Collectively, the plans have stock options, stock appreciation rights and restricted stock units (collectively, the ("ELIs")) outstanding. Each Equity-Linked Compensation Plan provides that, in the event of an extraordinary distribution of cash or other property, the plan administrator must make adjustments to the terms of the ELIs to ensure that the holders of the ELIs are made economically whole.

In Month 1, Year 1, Taxpayer's board of directors decided to reconsider its strategic options with respect to each of its businesses. In particular, businesses in Countries B, C, D, E, F and G and Business 1. Before the end of Year 1, the businesses operated in Countries D, E, and G were fully divested to unrelated third parties. Further, in Month 2, Year 1, Taxpayer entered into definitive, binding agreements with unrelated third parties to sell its Country F business and Business 1. The sale of the Country F business closed in Year 2. The sale of Business 1 is expected to close later in Year 2. Further, upon closing of the sale of Business 1, restricted cash Taxpayer has on deposit to satisfy certain federal regulatory requirements relating to Business 1 will be eligible to be returned to Taxpayer.

In Month 1, Year 2, after a thorough evaluation of all strategic options, Taxpayer's board of directors decided to continue to operate Business 2 and Business 3 under Taxpayer management. Taxpayer's board of directors further concluded that this decision did not preclude further engagement with potential buyers for the two businesses.

As of the beginning of Year 2, Taxpayer has a net operating loss ("NOL") carryforward of approximately \$X. Taxpayer has never declared or paid a dividend since its initial public offering in Year 3.

Proposed Transaction

Taxpayer proposes to enter into the following transactions (collectively, the "Proposed Transaction"):

1. Taxpayer will close the sale of Business 1 whereby Taxpayer will transfer all of its interests in Target to Buyer in exchange for the Gross Proceeds in cash, a portion of which will be held in escrow ("Escrow Account") unless and until such portion is released to Taxpayer. The rest of the Gross Proceeds will be transferred directly to a newly-formed Taxpayer bank account that will only hold sale proceeds ("Segregated Account").
2. Taxpayer will seek release of the approximately \$Y of restricted cash related to its collateralized regulatory obligations.
3. Taxpayer's board of directors will formally adopt a plan of partial liquidation pursuant to which Taxpayer will declare a pro rata dividend distribution with respect to its outstanding shares.
4. Taxpayer will distribute the Net Proceeds (defined below) from the sale of Business 1 pro rata to its shareholders through one or more distributions that will occur no later than the end of Year 4 (the "Distributions"). Appropriate adjustments or substitutions will be made under the Equity-Linked Compensation Plans to account for the Distributions as required pursuant to the terms of those plans. None of the proceeds of the other divestitures described above will be distributed pursuant to this plan of partial liquidation.

Representations

1. Throughout the period beginning five years prior to the date that the sale of Business 1 closes ("Closing Date") and continuing up until the date of the last of the Distributions, CFC2, CFC3 and CFC4, in the aggregate, will have continuously and actively conducted Business 2. Treas. Reg. section 1.355-3(b) and section 355(b). Throughout this period, CFC2, CFC3 and CFC4, in the aggregate, will have been directly engaged in Business 2. There is no plan or intention for Taxpayer to sell or

otherwise dispose of, directly or indirectly, one or more of CFC2, CFC3 and CFC4 and there is no plan or intention for one or more of CFC2, CFC3 and CFC4 to cease being directly engaged in Business 2.

2. Throughout the period beginning five years prior to the Closing Date and continuing up until the later of the date of the last of the Distributions, CFC1 will have continuously and actively conducted Business 3. Treas. Reg. section 1.355-3(b) and section 355(b). Throughout this period, CFC1 will have been directly engaged in Business 3. There is no plan or intention for Taxpayer to sell or otherwise dispose, directly or indirectly, of one or more of DRE1 and DRE2 and there is no plan or intention for one or more of DRE1 and DRE2 to cease being directly engaged in Business 3.
3. Taxpayer acquired Business 1 over A years ago. Taxpayer, through its ownership of Target Sub, will have continuously and actively conducted Business 1 throughout the five-year period prior to the Closing Date. Treas. Reg. section 1.355-3(b) and section 355(b).
4. Financial information has been submitted indicating that Business 1, Business 2, and Business 3 had income and expenses indicative of business activity in every year in the period beginning five years prior to the Closing Date up until the present (or, with respect to Business 1, until the Closing Date).
5. All the assets of Business 1 deemed to be sold by Taxpayer either: (i) were actively used by Business 1 throughout the five-year period ending the Closing Date; or (ii) were replacements of actively used assets. These replacement assets consisted primarily of fixed assets used in Business 1 that were acquired to replace similar fixed assets that had worn out or reached the end of their projected or anticipated useful lives. Each of the replacement assets (when considered together with the asset it replaced) was actively used in Business 1 throughout the five-year period ending on the Closing Date.
6. Taxpayer has not acquired, and has no plan or intention of acquiring, either directly or indirectly: (i) equity in Buyer, Target or Target Sub; or (ii) any part of Business 1 sold to Buyer.
7. Taxpayer has no plan or intention to re-enter Business 1. In addition, it is not anticipated that there would be any expansion of activities in Industry A.
8. Taxpayer has no plan or intention to completely liquidate, and it will continue to be engaged in Business 2 and Business 3.
9. The only asset that will be distributed in the Distributions will be cash.
10. The Distributions in partial liquidation will consist of all the net proceeds from the termination of Business 1. "Net Proceeds" means the entire amount received from

Buyer for Business 1 plus any other assets properly attributable to Business 1 including the cash on deposit pursuant to a letter of credit no longer required by Regulator after the Closing Date and the portion of Taxpayer's working capital attributable to Business 1, less: (i) cash used to pay liabilities properly attributable to Business 1; (ii) taxes and expenses of the Taxpayer attributable to the sale of Business 1 to Buyer; (iii) taxes and expenses of the Taxpayer incident to the proposed distribution in partial liquidation; and (iv) any loss on the proceeds as a result of being temporarily invested while placed in the Segregated Account (or while placed in the Escrow Account).

11. None of the Net Proceeds will be used in any manner by the Taxpayer, except for the placement of the Net Proceeds (including cash left from the Escrow Account, if any) into the Segregated Account. The Segregated Account assets will at all times be invested in nothing other than savings accounts, money market certificates, certificates of deposit and similar limited-risk short-term investments. Similarly, none of the cash in the Escrow Account was used in any manner except for paying liabilities associated with Business 1, or for investment in the same type of assets as the Segregated Account.
12. The Net Proceeds (including cash left from the Escrow Account, if any) are proceeds from the sale of business assets that were actively used in Business 1. None of the amount distributed in partial liquidation is, or is attributable to, any of the following: (i) a reserve for expansion that is no longer needed; (ii) a mere decline in, or loss of, business; (iii) a mere decrease in working capital, or in the need for working capital; (iv) mere proceeds of a sale which is nominal in relation to the entire business of Taxpayer (v) a business operated at a loss; or (vi) Taxpayer entering into a non-compete agreement with Buyer or any related entity.
13. The assets sold represent assets that were actively used in Business 1 and not passive or investment assets and were not substituted assets.
14. The Distributions will be made during the taxable year in which the plan of partial liquidation is adopted or in the succeeding taxable year.
15. Taxpayer will distribute the Net Proceeds pro rata to the Taxpayer shareholders. No shares will be surrendered by a Taxpayer shareholder.
16. The amount of cash distributed by Taxpayer to each shareholder will in each instance be approximately equal to the fair market value of the stock deemed surrendered by such shareholder in exchange therefor.
17. There are no declared but unpaid dividends on any shares of Taxpayer stock, and none will be declared before the Distribution.
18. There is no plan or intention on the part of any shareholder to reinvest in Taxpayer any of the amount distributed in partial liquidation.

19. None of the amounts distributed by Taxpayer to its shareholders in one or more of the Distributions will be received by a shareholder as a debtor, creditor, employee or in any capacity other than that of a Taxpayer shareholder.
20. The partial liquidation will not be preceded or followed by the reincorporation or transfer of such cash to a recipient corporation where persons holding more than 20 percent in value of the stock of Taxpayer also hold more than 20 percent in value of the stock of the recipient corporation. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of section 318 as modified by section 304(c)(3).
21. The terms of each ELI outstanding under the Equity-Linked Compensation Plans will be adjusted to eliminate the effect on the value of those equity-linked instruments caused by the Distributions.

Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the Proposed Transaction:

1. The Distributions will be treated as distributions in partial liquidation under section 302(e)(2), provided the distributions are made in the taxable year in which the plan of partial liquidation is adopted or in the next succeeding taxable year.
2. The maximum amount considered distributed in partial liquidation will equal the entire amount received from Buyer in exchange for Business 1 plus any other assets properly attributable to Business 1 including the cash on deposit pursuant to a letter of credit no longer required by the Regulator after the Closing Date (Rev. Rul. 75-3, 1975-1 C.B. 108) and the portion of Taxpayer's working capital attributable to Business 1 (Rev. Rul. 60-232, 1960-2 C.B. 115), less: (i) cash used to pay liabilities properly attributable to Business 1; (ii) taxes and expenses of the Taxpayer attributable to the sale of Business 1 to Buyer; (iii) taxes and expenses of the Taxpayer incident to the proposed distribution in partial liquidation; and (iv) any loss on the proceeds as a result of being temporarily invested while placed in the Segregated Account (or while placed in the Escrow Account). This amount will not include any earned or accrued investment earnings on the sale proceeds while in the Segregated Account.
3. The Distributions will be treated as in full payment in exchange for the stock deemed to have been redeemed (Section 302(a)). Gain or loss will be recognized to Taxpayer's non-corporate shareholders to the extent of the difference between the amount distributed in the partial liquidation and the adjusted basis of the shares deemed surrendered in exchange therefor. Provided that Taxpayer stock is a capital asset in the hands of Taxpayer's shareholders, gain or loss, if any, will be

considered capital gain or loss subject to the provisions and limitations of Subchapter P of Chapter 1 of the Code.

4. No gain or loss will be recognized to Taxpayer on the distribution of the Net Proceeds consisting solely of cash in partial liquidation. (Section 311(a)).
5. For purposes of rulings (1) and (3) above, the number of shares that will be considered to be constructively redeemed for the purpose of determining gain or loss will be determined in accordance with the principles set forth in Rev. Rul. 77-245, 1977-2 C.B. 105.

Caveats

No opinion is expressed or implied about the tax treatment of the Proposed Transaction under any other provisions of the Code or regulations, or effects resulting from the Proposed Transaction that are not specifically covered by the above rulings.

Procedural Statements

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Richard K. Passales
Senior Counsel (Branch 4)
Office of Associate Chief Counsel (Corporate)

cc: